

Amendment filed with Request for Continued Examination
Application No. 10/071,490
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REMARKS

In view of the foregoing, Applicant submits that the pending claims now comply with the requirements of 37 CFR 1.121.

Upon entry of this amendment, claims 91-103 will be pending in the above-identified application. Claims 95 and 102 are amended as suggested in an interview with Examiner Fubara to discuss the pending Office action. Claims 99 and 101 were amended to correct typographical errors.

Reconsideration and allowance of all pending claims are respectfully requested in view of the amendments and the following remarks.

Applicant would like to thank Examiner Fubara for her telephone interview held with Applicant's representative on August 23, 2005, at which suggested amendments to the claims to put into condition for allowance were discussed.

Claim Rejections - 35 U.S.C. § 102(e)

Claims 56, 68 and 69 have been cancelled without prejudice and their rejection as to those claims under 35 U.S.C. 102(e), although traversed is therefore moot.

Claim Rejections - 35 U.S.C. § 103(a)

Claims 57-60, 65-67 and 70-90 have been cancelled without prejudice and the rejection as to those claims under 35 U.S.C. § 103(a), although traversed, is therefore moot.

Applicant respectfully traverses the remaining rejection under 35 U.S.C. § 103(a) of claims 91-103 as being unpatentable over Muschler (U.S. Patent 6,049,026) in view of applicant's admitted prior art. Applicant further urges reconsideration and allowance of pending claims 91-103.

Claims 95 and 102 have been amended in accordance with a proposed Examiner's amendment, and, as discussed, it is believed that all of claims 95-103 are in condition for allowance. Moreover, it is urged that Muschler, with its focus on bone marrow aspirate (col. 3, li. 23-31), clearly does not suggest a composition for promoting growth and strengthening of bone, and methods employing such compositions, wherein the key components consist essentially of the mixtures as set forth in claims 91-103. Accordingly, it is urged that the rejection be withdrawn.

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CONCLUSION

Applicant does not believe that any fees are due for this submission. However, any applicable fees determined to be due can be charged to Deposit Account No. 19-3140.

If the Examiner believes that there is any issue which remains to be resolved, the Examiner is respectfully requested to contact the undersigned attorney at the telephone number listed below.

Dated: 10-6-05

Respectfully submitted,



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